THE HON'BLE SMT JUSTICE T.MEENA KUMARI

and

THE HON'BLE SRI JUSTICE P.LAKSHMANA REDDY

W.A.Nos. 575 and 1728 of 2001

COMMON JUDGMENT: (per the Hon'ble Smt. Justice T. Meena Kumari)

Leave granted.

The appellants in both the appeals assail the Order, dated 13.03.2001, in W.P.No.11001 of 1991 passed by the learned Single Judge.

It is submitted that by virtue of the powers vested under the A.P. Charitable and Hindu Religious Institutions and Endowments Act, 1987, the Government of Andhra Pradesh, by its G.O.Ms.No.1060 Revenue (Endowments-I), dated 24.10.1989, issued Tirumala Tirupathi Devastanams Employees Service Rules, 1989 (for short 'the Rules'). Rule 4 thereof contemplates that the Tirumala Tirupathi Devasthanam (for short 'TTD') employees shall be governed by the said Rules. The posts of Deputy Executive Engineers, Assistant Executive Engineers, Assistant Engineers fall under the categories 4,5 and 6 respectively of Civil Engineering Section in Engineering Service. As per Sub-rule (2)(c) of Rule 2 of A.P. Engineering Service Rules, 1966, out of every 4 vacancies successively arising in the case of Deputy Executive Engineers, so far as qualified and suitable candidates are available, the first 2 shall be filled in by promotion from among the Assistant Executive Engineers specified under the Group 'A' and the third vacancy shall be filled from among the Assistant Engineers holding diploma in compressed Engineering and the fourth vacancy shall be filled by recruitment by transfer from among those specified under Group 'B'. Rule 3 of G.O.Ms.No.925 Revenue (Endowments. III) Dept., dated 18.06.1983, states that the servants of TTD shall be governed by the Rules, Orders and Clarifications issued by the Government in respect of the Employees of the State Government from time to time. While so, the Government of Andhra Pradesh, *vide* its G.O.Ms.No.180, Irrigation (Ser.IV-2) Department, dated 29.04.1983, brought an amendment to the special rules for the A.P. Engineering Services by adding

" Post-graduate qualification of an Indian or Foreign University shall be treated as an additional qualification and preference shall be given to such candidate in the matter of direct recruitment, promotion and recruitment by transfer to the post of Deputy Executive Engineer. The extent to which a post-graduate has to be given preference in the matter of promotion to the post of Deputy Executive Engineer is an indicated below.

9th vacancy in 9 vacancies intended for appointment of Asst. Executive Engineer and compressed Diploma Holder as Asst. Engineer shall however be earmarked for post-graduate Asst. Executive Engineers"

The case of the first respondent is that he was the senior most post-graduate Assistant Executive Engineer working with the respondents. However, respondents 2 and 3 failed to implement G.O.Ms.No.180 so far. Hence, he filed the writ petition seeking to implement the provision under Note No.1 of Rule 4 of A.P. Engineers Service Rules 1966, inserted as per G.O.Ms.No.180, Irrigation (Ser.IV-2) Department, dated 29.04.1983, while making promotion to the posts of Deputy Executive Engineers from the category of Assistant Engineering by T.T.D.

Respondents 2 and 3 filed their counter in the writ petition stating that T.T.D. has accepted that they have adopted the procedure envisaged in G.O.Ms.No.180, dated 29.04.1983 and the case of the first respondent would be considered at the time of preparation of panel for promotion of Deputy Executive Engineer by the T.T.D., if he is eligible.

The learned Single Judge, after going through the rival contentions, directed respondents 2 and 3 that as and when the panel is prepared for promotion to the cadre of Deputy Executive Engineer, the case of the first respondent should be considered, if he is qualified and eligible as per Rules. Aggrieved thereby, the appellants filed the appeals.

The case of the appellants is that vide G.O.Ms.No.128 Revenue (Endts. III) Department, dated 09.03.1998, the Government permitted the T.T.D. to follow the Single Engineering Department in Government viz. Transport Roads and Buildings Engineering Service Rules, hence G.O.Ms.No.180 cannot be made applicable to the employees of T.T.D. According to the appellants, themselves and the first respondent have been selected for appointment as

Asst. Executive Engineer *vide* Proc. Roc.No.TL1-16269/82, dated 26.07.1984. Their grievance is that as they were placed at Serial Nos. 4 and 7 respectively and the first respondent was placed at Sl.No.9 and they were promoted as Deputy Executive Engineers in 1995, the question of considering the retrospective promotion of the first respondent as Deputy Executive Engineer, does not arise and the same affects their seniority.

Sri A. Rajasekhar Reddy, the learned counsel for the appellants, contends that in the view of the fact that the TTD has promulgated the Rules called as Tirumala Tirupathi Devasthanam Employees Service Rules, 1989, in the absence of any amendment to the same, there cannot be any action on the part of the third respondent to promote the first respondent, in view of the orders of the learned Single Judge. He further contends that by virtue of G.O.Ms.No.246, dated 09.05.2002, the Government included B.Tech (Mechanical) for promotion to the cadre of Executive Engineer from the Cadre of Deputy Executive Engineer in T.T.D. He further contends that T.T.D. has no power whatsoever to adopt the G.Os. as issued from time to time. The learned counsel argues that the Government has issued G.O.No.128, dated 09.03.1990 for adopting the G.O.Ms.No.104 Transport Roads & Building Department, dated 23.05.1996, in case of transfers to the Draughtsman/Tracers working in Transport Roads & Buildings Department, unless and until the Government issues separate G.Os. for adopting G.O.No.180, there cannot be any action on the part of the T.T.D to adopt the said G.O. He also contends that as per Rule 4 of the TTD Employees Service Rules, 1989, even though the rules enunciated for adoption of the G.Os,. issued by the Govt. of A.P., yet the T.T.D. has to take the consent of the Government for adoption of G.O.No.180. It has also been contended that in the counter affidavit filed in the writ petition, the Devasthanam has stated that GO.Ms.No.180 is yet to be implemented.

The learned counsel appearing on behalf of the first respondent has contended that the TTD Employees Service Rules, 1989 itself provide for following the rules and instructions in G.Os. that are issued from time to time by the Government and which are not inconsistent with the Act and the Rules made thereunder.

In view of the controversy raised in this matter, it has to be seen whether T.T.D. has got the power to adopt G.O.Ms.No.180.

Rule 4 of T.T.D. Employees Service Rules, 1989 reads as follows:

> "The Tirumala Tirupathi Devasthanams Employees shall be governed by following the rules and such of the orders land clarifications issued on these rules by Government of Andhra Pradesh in respect of the employees of the State Government from time to time in so far as they are not inconsistent with the Act and the Rules made thereunder:
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> (ii) .....
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> (vii) .....
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> (viii) .....
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> (ix) any other executive instructions and Government Orders that are issued from time to time by the Government in respect of their employees which are not inconsistent with the Act and the Rules made thereunder.

Sub-rule (ix) of Rule 4 goes to show that T.T.D. employees shall be governed by any other executive instructions and Governments orders that are issued from time to time by the Government in respect of their employees which are not inconsistent with the Act and Rules made thereunder. It also goes to show that the T.T.D. has power to adopt the G.Os. which has to be read along with the resolution passed by the T.T.D. as back as in 1980 itself. It has to be observed that there is no material placed before this Court that the resolution has been rescinded by the T.T.D. It has to be further noted that by G.O.No.262 dated 14.07.1998, the Government has directed that the Irrigation and Command Area Development Department should be the model department for the other departments having Engineering wings to adopt the similar provisions in their service rules. It is brought to the notice of this Court that through the proceedings in ROC.No.TL1/5429/2001, dated 17.10.2001, the then Executive Officer has informed the Devasthanam Law Officer stating that as per the Judgment in the writ petition filed by the first respondent, he was

eligible with M.Tech qualification as on the date of Adhoc promotion. It is also stated that as regards adoption of service rules of R & B and PWD in T.T.D. it is under examination and with regard to the promotions and appointments in Engineering Department (Civil) they are being processed based on the existing service rules issued in G.O.Ms.No.1060, dated 24.10.1989. In view of the fact that T.T.D. in its resolutions No.447 and 1095 dated 19.09.1980 and 01.04.1991 respectively has resolved to adopt all the G.Os. which are issued from time to time and the A.P. Engineering Service Rules in the T.T.D. in so far as they are not inconsistent with the TTD Employees Service Rules, it has to be held that T.T.D. has got powers with it to adopt the G.Os. as issued from time to time and the Engineering Service Rules. Admittedly, there is no order placed before this Court by either of the counsel that T.T.D. has passed a final order in pursuance of such decision. It is also to be observed that T.T.D., being a very big organization, has to control the men and machinery, in view of the inflow of a large number of devotees to the temple. In view of the fact that the Resolution No.447, dated 19.09.1980 remained unchallenged, we do not agree with the contentions raised by the learned counsel for the appellants that T.T.D. has no power to adopt the G.Os.

Therefore, We do not find any reason to interfere with the order under appeal. We are of the view that there is no cause of action for the appellants to file the writ appeal. However, we grant liberty to the appellants to agitate their rights, if they are aggrieved, as and when an order is passed by the T.T.D., before the appropriate forum.

With the above observations, the writ appeals are dismissed. We leave the other issues open.

(T. Meena Kumari.J)

(P. Lakshmana Reddy.J)

ksld/kdl

Dt.25.08.2005